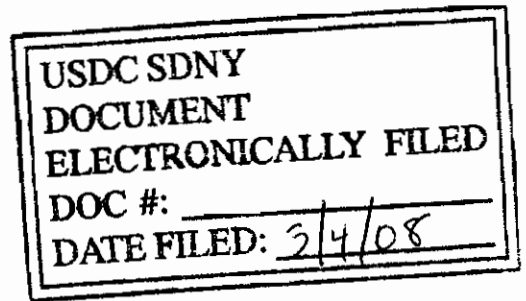


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
TEN SEVENTY ONE HOME CORP. and MORTON  
G. YUTER,

Plaintiffs,

-v-

LIBERTY MUTUAL FIRE INSURANCE COMPANY,  
JOSH NEUSTEIN, LEONARD W. HUTCHINGS,  
and JUDY HUTCHINGS,

Defendants.

07 Civ. 11211 (DLC)

ORDER

-----X  
LIBERTY MUTUAL FIRE INSURANCE COMPANY,  
Third-Party Plaintiff,

-v-

GREENWICH INSURANCE COMPANY,  
Third-Party Defendant.

-----X  
DENISE COTE, District Judge:

At the pretrial conference held on February 8, 2008, plaintiff was ordered to serve the individual defendants in this action by February 15. Counsel for two of the individual defendants (Leonard W. Hutchings and Judy Hutchings) attended the conference despite his clients' not having been served and indicated that he would not accept service on his clients' behalf.

By letter dated February 28, counsel for the plaintiffs informed the Court that, on January 9, 2008, he had "forwarded

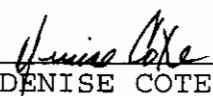
the Notice of Removal and related papers to . . . the attorney for Leonard W. Hutchings and Judy Hutchings in the underlying action, which also included a copy of the Bronx County Summons and Verified Complaint filed in this declaratory judgment action." The letter further stated that plaintiffs' counsel had forwarded to the Hutchings' counsel "copies of the affidavits of service upon Leonard W. Hutchings and Judy Hutchings in this declaratory judgment action." As to the third individual defendant, Josh Neustein, the letter "noted that service of process of the Summons and Verified Complaint was not made" upon him.

The letter from plaintiffs' counsel does not indicate whether service on Leonard W. Hutchings or Judy Hutchings was accepted. Nor does the letter indicate the extent of plaintiffs' efforts to serve these individual defendants. Further, the docket sheet does not reflect the filing of affidavits of service as to Leonard W. Hutchings, Judy Hutchings, or Josh Neustein. Accordingly, it is hereby

ORDERED that this action be dismissed as to defendants Leonard W. Hutchings, Judy Hutchings, and Josh Neustein.

SO ORDERED:

Dated: New York, New York  
March 4, 2008

  
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DENISE COTE  
United States District Judge